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5 Attorneys For Defendant and Counterclaimant
6 E-Z-GO, a division of TEXTRON INC.

E-filing

7
8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**

10
11 TK POWER, INC.

12 Plaintiff,

13 v.

14 TEXTRON, INC.

15 Defendant.

Case No. C-04-5098 EMC

Judge: Hon. Edward M. Chen

16 **STIPULATION AND [PROPOSED]**
17 **ORDER TO ENTER PRELIMINARY**
18 **VERDICTS**

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22 Plaintiff TK Power, Inc. and Defendant E-Z-GO, a division of Textron Inc., by and
23 through their respective undersigned counsel, stipulate and agree, and hereby do request that The
24 Honorable Edward M. Chen ("the Court"), who presided over the trial of this lawsuit, consider
25 the evidence and testimony presented at the initial trial in this cause, to include the Court's notes
26 taken in the course of said proceeding, and enter preliminary verdicts on the two claims that
27 remain unresolved: plaintiff's 1st claim in its First Amended Complaint, for Breach of Contract,
28 and plaintiff's 3rd claim in the First Amended complaint, for Negligent Misrepresentation. In

STIPULATION AND [PROPOSED] ORDER

1 accordance therewith, the parties further request that the Court complete the verdict forms for the
2 pertinent claims, which forms the parties presented to the jurors at the May 2006 trial of this
3 matter and are attached to this Stipulation as Exhibit 1, but refrain from immediately entering
4 written findings of fact and conclusions law in support of said verdicts.

5
6 **IT IS SO STIPULATED.**

7
8 DATED: September 25, 2006

TUCKER ELLIS & WEST LLP

9
10 By: /S/
11 Peter J. Koenig
12 Attorneys for Defendant and
13 Counterclaimant E-Z-GO, a division of
14 TEXTRON, INC.

15
16 DATED: September 25, 2006

CORNERSTONE LAW GROUP

17 By: /S/
18 John C. Brown
19 Attorneys for Plaintiff and
20 Counterdefendant TK POWER, INC.
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ORDER

Pursuant to foregoing stipulation, IT IS SO ORDERED.

DATED: ^{October} ~~September~~ 3, 2006

By: 

THE HONORABLE EDWARD M. CHEN
UNITED STATES DISTRICT COURT

EXHIBIT 1

United States District Court

For the Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TK POWER, INC.,

No. C-04-5098 EMC

Plaintiff,

v.

VERDICT FORM

TEXTRON, INC.,

Defendant.

1 **I. BREACH OF CONTRACT**

2 On TK Power's claim for breach of contract, select one of the two options:

3
4 ☐ We find in favor of TK Power and against Textron/E-Z-GO.

5
6 ☒ We find in favor of Textron/E-Z-GO and against TK Power.

7
8 If you find in favor of TK Power on this claim, answer the following:

9 We award TK Power the following damages: \$ _____.

10
11 Please go on to the next section, Section II - Negligent Misrepresentation.

1 **II. NEGLIGENT MISREPRESENTATION**

2 On TK Power's claim for negligent misrepresentation, select one of the two options:

3
4 ☐ We find in favor of TK Power and against Textron/E-Z-GO.

5
6 ☒ We find in favor of Textron/E-Z-GO and against TK Power.

7
8 If you find in favor of TK Power on this claim, answer the following:

9 We award TK Power the following damages: \$ _____.

10
11 Please go on to the next section, Section III - False Promise.